



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Brunswick Board of Appeals Minutes April 27, 2006

Commission Members Present: Chair Wayne Hawes, Vice Chair Dawn Page, Secretary Barbara Baker, and Patty O'Brien, Alternate.

Mayor & Council Present: None.

Staff Present: City P & Z Administrator Rick Stup, Development Review Planner Jeff Love, Comprehensive and Utility Planner Jack Whitmore, and City Attorney David Severn.

Chair Hawes called the meeting to order at 7:05 PM.

Minutes:

The minutes for the February 23, 2006 meeting were reviewed and approved, (motion by Ms. Page and seconded by Ms. Baker, passed unanimously).

Chairman: Mr. Stup introduced Mr. Whitmore to the Board.

Mr. Stup also indicated that the proper time limits would be kept for those who wished to testify.

Old Business: None.

New Business:

Zoning – Variance

Hopwood Properties, LLC - Requesting a variance from the Front Yard and Side Yard Setbacks in order to move forward with a Site Plan to develop the property, located at the end of Walnut Street and South of Alley #6 (Tax Map 201, Parcels 421 and 420). Zoned I-1. City Case File # BR-BOA-05-01-V.

Chairman swore in those wishing to testify on the case.

Board of Appeals Minutes
April 27, 2006
Page 2 of 5

Staff Presentation

Mr. Stup read the case file into the record.

Mr. Love presented the Data Sheet (Copy Attached) to include the following requested Variances: A Variance of 10' from the Required 25' Front Yard Setback along proposed Jaynie's Way; A Variance of 18' from the Required 25' Front Yard Setback along Alley #6; A Variance of 24' from the Required 25' at proposed Truncation Formed at the intersection of proposed Jaynie's Way and Alley #6; A Variance of 12' from the 27' Side Yard Setback (based on proposed Building Height) along the CSX Railyard and Parcel 418.

It was noted that if the Board is considering the approval of some variance, the following conditions should be considered for that approval:

- Applicant must justify that the required dedication of right-of-ways is not required on other similar cases and that the request is a special requirement for this particular situation.
- Applicant must justify the need for the number and size of buildings that are proposed or if smaller or fewer buildings could be constructed to minimize impacts on the surrounding neighborhood and fit within the required setbacks.
- The hardship created by the Truncation of proposed Jaynie's Way must be further justified as the applicant requested the movement of the alleyway to its proposed location to allow for more usable property.
- Applicant must further justify the uniqueness of the requirement to allow for Emergency Vehicles to navigate City right-of-ways.
- Justification as to why a clear separation between the I-1 and I-2 Zoning Districts is not needed on the southern property line.
- Applicant must further justify that the aesthetics sufficiently mitigate the proposed setback variances.
- The use of landscaping on the perimeter of the property to create a buffer between the proposal and surrounding neighborhood. During Site Plan review, if it is found that Emergency Vehicles cannot maneuver movement from truncation of proposed Jaynie's Way onto public alley to West Potomac Street, twenty-four foot (24') Variance for Front Yard Setback at truncation of Jaynie's Way will be revisited by Board of Appeals.
- Emergency Vehicle access easement from West Potomac via applicant's private driveway to Alley #6 to further allow for Emergency Vehicle circulation.
- Bollards to be placed on the exterior of northeast corner of Building #4 at the truncation to prevent damage to the applicant's property and provide additional safety measures for the turning movement through the truncated section of proposed Jaynie's Way.

Board of Appeals Minutes
April 27, 2006
Page 3 of 5

Staff Presentation Cont.

Mr. Love also read comments from the City's Reviewing Agencies into the record.

Applicant:

Mr. Rand Weinberg of Weinberg and Miller P.A., David Adams of VanMar Associates, and the Applicant Mr. and Mrs. Bill and Jaynie Hopwood of Hopwood Properties, LLC, presented the applicant's case, and provided answers to some of Staff concerns.

Mr. Weinberg requested that Mr. Adams and himself be considered expert witnesses by the Board, and Mr. Adams' resume was given as part of the record.

Mr. Hopwood also presented petitions to the Board and gave a statement.

Testimony In Support:

Kim Cable (807 Fourth Avenue)

Randy George (523 West Potomac Street)

Tim Erfourth (528 West Potomac Street)

Testimony In Opposition: None.

Additional Relevant Testimony: None.

Rebuttal: None.

(Ms. O'Brien requested to excuse herself and exited the dias at 8:14)

Ms. Page made a motion to go into Closed Session to consult with the City Attorney at 8:20 PM; Ms. Baker seconded the motion (VOTE: Yea 3 Nay 0).

Ms. Page made a motion to resume Business at 8:40 PM; Ms. Baker seconded the motion (VOTE: Yea 3 Nay 0).

Decision

Ms. Page made a motion to approve the Variance of 10' from the Required 25' Front Yard Setback along proposed Jaynie's Way in accordance with the following requirements and the Applicant's testimony:

Under Article 24.3,C, a variance may be granted provided that the need justifying

Decision cont.

the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:

1. Strict compliance with the regulations would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome.
2. A lesser variance than that applied for would not provide adequate relief.
3. Granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest,

And under Article 24.8,B,3:

The Board of Appeals shall not grant a variance unless and until the following conditions are satisfied:

- a. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to the other lands or structures in the same district; and
- b. The literal interpretation of the provisions of this chapter would deprive the applicant of the right commonly enjoyed by other properties in the same district under terms of this chapter;
- c. That the special conditions and circumstances do not result from the actions of the applicant; and
- d. That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and
- e. A public hearing has been held;
- f. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

; Ms. Baker seconded the motion.

VOTE: Yea 3 Nay 0

Board of Appeals Minutes
April 27, 2006
Page 5 of 5

Ms. Baker made a motion to approve the Variance of 18' from the Required 25' Front Yard Setback along Alley #6 in accordance with the requirements under Article 24.3,C and Article 24.8,B,3 and the Applicant's testimony:

; Ms. Page seconded the motion.

VOTE: Yea 3 Nay 0

Ms. Page made a motion to approve the Variance of 24' from the Required 25' Front Yard Setback at the proposed truncation formed at the intersection of proposed Jaynie's Way and Alley #6 in accordance with the requirements under Article 24.3,C and Article 24.8,B,3 and the Applicant's testimony:

; Ms. Baker seconded the motion.

VOTE: Yea 3 Nay 0

Ms. Baker made a motion to approve the Variance of 12' from the 27' Side Yard Setback (based on proposed Building Height) along the CSX Railyard and Parcel 418 in accordance with the requirements under Article 24.3,C and Article 24.8,B,3 and the Applicant's testimony:

; Ms. Page seconded the motion.

VOTE: Yea 3 Nay 0

Board Matters:

Mr. Stup indicated that there would be a meeting on May 25 for the resolution of the case discussed.

Public Comment:

None.

Adjournment:

The meeting was adjourned at: 9:10 PM.

Respectfully submitted,

Barbara Jean Baker, Secretary
Brunswick Board of Appeals